

1895-067 Chancery Cause: C. C. Poteet vs. W. H. Rhea
Lee Co.

CA-Debt

T-Property

To The Hon. W. T. Miller Judge
of the Circuit Court of Lee Co
Virginia:

Your orator, ^{C. C. Pattee} who
humbly complaining would
respectfully represent that,
heretofore at the June Term of
this Hon. Court, he obtained a
Judgement against one Jesse
Anderson, in an action of
unlawful Entry and detainer
for a certain boundary of
land in his action fully de-
scribed; and upon that Judge-
ment a writ of possession
was awarded and went into
the hands of Evan Blalock D.S.
for W. P. Weston Sheriff of said
County, and was by him
fully executed by delivering
the possession thereof to your
orator, who to avoid any
further complications, enclosed
the cleared part thereof by a
wire, put up along the line so
delivered to him. While said
suit was pending and before
the trial thereof, the said An-
derson, as it now turns out
had rented a portion of the
land in dispute to one W. H.
Rhea, who at the time of said

trial lived in a small house also situated upon said land and had, rented most of the disputed land to cultivate, and had then a growing Corn Crop thereon.

When the Sheriff came to deliver said possession said Rhea besought your orator not turn him and his family out of doors and after taking advice your orator agreed if he would give said land and premises and turn it over to your orator, and relinquish any claim thereto, then your orator would for a very small sum, re-rent him said house to live in; but only by the month, and this was agreed too and your orator took, under the said Sheriff, full & complete possession of all of said land and said house, and then in compliance with his promise rented the house only to said Rhea by the month. It will be observed that at the time possession was so delivered to him, the Corn Crop cultivated & raised by said Rhea was then & still is upon said land. Your orator claimed the Corn as being upon his land thus recovered, and said Rhea tried to

have his part of the crop given
to him this year. Crater refused &
required the same to be delivered
to him, and said Rhea with full
knowledge of your Crater's claim
right gave it up and your
crater has ever since ^{been} and still
is in possession thereof; But in
the last few days, said Rhea has
gone into said field against your
crater's will, and against his
express and positive demands and
is cutting & using and threatens
to cut & use $\frac{2}{3}$ of said crop, under
the pretended right that under
his Contract with Anderson he
has the legal right to do so, and
he threatens to continue his use of
the said two thirds until he has
consumed the same. Offering to
pay your crater the rent, one third.

This use of his property he has
no means to prevent, unless by
a breach of the peace. The said
W. H. Rhea is insolvent, and a
judgment at law would be
unavailing and unfruitful, and
if he continues to use said Corn
your crater will suffer irrepa-
rable injury amounting to the
whole $\frac{2}{3}$ of said crop 100, or
perhaps 125 bushels of Corn.

Your orator is advised that only the restraining power of a Court of equity can stay & prevent this willful trespass and destruction of his Corn.

He is advised that the growing Crop followed the judgment and recovery of his land and that said Rhea if he has any remedy it is only against the man from whom he took unlawful possession of your orator's property, and he can not now complain of suffering from his own wrongful act.

At all event, your orator is advised the whole of said Crop so turned over to him by said Sheriff is his rightful property and is in peril of loss by the unlawful act of said Rhea.

To enjoin him the said W. H. Rhea from cutting removing seeing selling or consuming said Corn is the object of this Bill and on a final hearing to have him perpetually enjoined from the use thereof.

The premises considered therefore your orator prays that W. H. Rhea be enjoined and inhibited from cutting seeing removing or in

any way taking charge of or in-
terfering with said Corn until
the future order of this Court &
on a hearing that this injunction
be perpetuated and made final
And for all other further and
General relief may supra
issue &c.

D. C. Sewell

Virginia Lee County & wit:

This day C. C. Potter personally
appeared before me and made
oath that the facts stated in
the foregoing Bill do for as made
upon his own knowledge are
true or so far as made upon
information derived from others
he believes them to be true.

Aug. 29th 1895.

D. C. Sewell Notary
Public for Lee Co. Va.,

1895-2nd Oct Rules
Dismissed agreed.
Also costs
C 4.48
S 50,
\$4.98

118.
Le. Le. Potest

vs Bill Chy

W. H. Rhea

Injunction granted
pursuant to the
prayer of the Bill,
enjoining and inhib-
iting the defendant
W. H. Rhea his attys or
agents from selling
using cutting or de-
muring the ^{copy} ~~cost~~ men-
tioned in the Bill until
the future order of this
Court. But this injunction
not to become effect-
ive until the plff shall
execute bond before the
Clerk of this Court in
a penalty of \$50 & with
good security conditioned
according to law of 1875

N L Miller

To the Clerk of the
Circuit Court of
Cal Co.

Virginia:

To the Honorable W.T. Miller, Judge of the Circuit court of Lee county.

The demurrer and answer of W.H. Rhea to a bill exhibited against him in this in this Honorable court by C.C. Poteet, enjoining your respondent from removing certain corn in the bill mentioned:

Demurring, your respondent says that the said bill is not sufficient in law and should be dismissed and the said injunction dissolved, because your respondent is no where made a party to the said bill, and is no where called upon to answer the same, although he has been served with process to answer a bill by C.C. Poteet, plaintiff, &c.; and because the record of the suit between Jessee Anderson and the said C.C. Poteet mentioned in the bill, is no where made a part of the said bill.

But should your Honor be of the opinion that he is a party to the said bill, then he answers and says:

He has been informed that there was a litigation of some sort between his land lord, Jessee Anderson, and the said C.C. Poteet, and he is also informed that there was a judgment rendered at the June term of this Honorable court in the said cause, but he does not admit any of these allegations, of the bill, and he calls upon the complainant for strict proof thereof. He is also informed that the aforesaid action ~~against the said~~ between the said Anderson and Poteet covered a tract of land which he was using, occupying and cultivating as tenant of the said Anderson. But he absolutely denies the allegation of the bill that he went into possession of the said land during the pendency of the said litigation. But your respondent here alleges that for some time he had been the tenant from year to year on the same tract of land, on which was situated a house in which he lived, and he alleges that he had occupied the garden, cornfields and other lands during the same period of time. Your respondent alleges that he was in possession of the land on which this corn here sought to be enjoined grew, as a tenant for the year of 1894, and that he had pitched the same along with his other crops for that year, and that he was still in the occupancy of the same when this suit mentioned in the bill was

instituted; and he further alleges that about two months prior to the institution of the said suit, which institution ^{was} on the following day, to wit: on the 23rd day of October, 1894, he had rented of the said Anderson for the year of 1895; and therefore he says that he has ^{of the said premises} been in the possession continuously for several years, and unquestionably at the institution of the suit aforesaid.

As to the allegation in the said bill that he consented to deliver possession to the said Poteet, the said Deputy Sheriff, or to any one for either or both, at the time that the said deputy sheriff came to the premises aforesaid and claimed to have the legal right to dispossess your respondent: in answer to which your respondent would say, that he absolutely forbade the said officer or any one for him to enter the said premises, or to do any act unauthorized by law. The said deputy sheriff, at the time aforesaid, declared that he had the authority to unhouse your respondent, and did proceed to throw a few of his goods out into the road, but there was one room which was not opened by the said sheriff or any one for him, in which the goods and chattels of your respondent were left untouched and he in the undisturbed possession. Your respondent did tell the said officer that if the authority under which he was acting was correct and lawful, that your respondent had no fight to make against the law, that he was a law abiding man and did not want any trouble; but the allegation or insinuation that that he ever waived his legal rights and recognized the said Poteet as the true and lawful possessor of the said house or corn field, ^{or corn} is without foundation. So far as your respondent knows or believes this was the only attempt to deliver the possession of the said premises, corn field with the corn thereon, or any thing else, to the said Poteet.

That the sheriff, as alleged in the bill, cut or divided off the leased premises with a wire or any thing else, is here alleged to be untrue,

Your respondent here alleges that all action taken against him ^Y under or by virtue of the writ of possession, the judgment, or any of the proceedings in the action mentioned in the bill, was illegal and void, because he is advised that, being in possession of the premises, for which suit was instituted, he should have been made a party, which was not done.

3.

he again alleges that at no time did he ever agree to surrender possession, or recognize C.C. Poteet as the one under whom he held; insisting on this statement as true, yet he desires to allege that if he ever did or said any thing that could be in *any* wise so construed, that the same was done or said under duress, and by the deception of the deputy sheriff mentioned in the bill, the said C.C. Poteet ~~and~~ those with the aforesaid officer, at the time of their unlawfully attempted dispossession of your respondent of the premises here in question, and the corn here sought to be enjoined, growing thereon.

Your respondent further alleges that the said C.C. Poteet, the complainant, before and at the time of the institution of the action of unlawful entry and detainer, mentioned in the bill, against the said Anderson, knew that your respondent was in the possession of the house, corn fields and growing crops, and ^{on which} the corn here sought to be ~~en-~~
^{afterward grew} joined, and that he was in such possession as the tenant of the said Jesse Anderson.

And now having fully answered, he prays to be hence dismissed with his reasonable costs in this behalf expended, &c.

W. V. Rhea.

By
O. B. Beardslip & Ewing,
his counsel.

W. H. Rhea

ads. } Ans -

C. C. Pollett.

On Blankenship & Ewing
P. D.

Filed October the 9th / 1898
A. B. Munsey
Clerk

10
The Commonwealth of Virginia

To the Sheriff of Lee County Greeting;
We Command you that Summon Jesse Anderson, if he be found within your bailiwick, to appear before the Judge of our Circuit Court for our Said County, at the Courthouse thereof, on the 1st day of the next term, to answer C. C. Poteet of a complaint that the Said Jesse Anderson is in the possession of, and unlawfully withholds from the Said C. C. Poteet, a certain premises lying and being in the Said County and described as follows to wit: Beginning at a down Hickory in a hollow on a line of C. C. Poteet's 200 acre tract thence S 40° W 73 poles to a poplar stump; thence S 17° E 20 poles to a white oak maple & ash on the bank of the west fork of Blackwater Creek. thence with the meanders of Said Creek southwardly 56 poles to where the said line of the said 200 acre survey crosses said Creek and a 30 acre survey of said Poteet and thence northwardly, with said line of said 200 acre survey to the fence put up by Jesse Anderson and thence ^{with} the same (said fence) so as to include the same as it meanders on Poteet's 30 acre survey around to to said line of said 200 acre survey

at the point where the line of the 30
acre Survey crosses said line of said 200
acre Survey, and thence with said line
of said 200 acre Survey N 2° W 31 poles
to the beginning.

And have then there this writ,
Witness A.B. Munsey, Clerk of our
said court at the courthouse the 23rd
day of October 1894, And in the 119th year
of the Commonwealth
A.B. Munsey Clerk

W. C. Potteat

Unlawful entry.

Jesse Anderson

To 1st day of Nov 7

executed by delivering
the within office copy
to Jesse Anderson this

OCT 29 day 1894

H. P. Harrington Deputy

for C. E. Harrington

200

June Term 1895
Judgt See order
Book Page 452

Defts costs

\$43.07

Defts costs

\$40.16

We the Jury
find for the
Plt. The land
abundant in the
western part of
the tract.

This agreement made this 17th day of
October 1895, by and between C. C. Pateet
& W. H. Rhed, witnesseth that the said
parties have settled the two suits between
them, one in chancery ~~pending~~ in the
Circuit Court of Lee County Va, and the
other in Unlawful Entry & Detainer
appealed from a justice to the County Court
of said County, by the said Pateet
paying to said Rhed Thirteen dollars &
fifty cents for his corn crop &c, after
said Rhed settling said Pateet's account
against him for pasture &c, and thus set-
tling all matters of account &c between
them, and said suits to be at once dismissed
and each party to pay his own costs.
And the said Rhed is to surrender posses-
sion of the premises where he now
lives, in controversy, to said Pateet on
or by the 25th day of October 1895.
Given under our hands.

C. C. Pateet
W. H. Rhed

Witness.

S. C. Sewell
James W Orr.

W. H. Rhea

+ } agreement.

C. C. Poter-

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C. C. Poter,

TAKE NOTICE. That I on the 17 day of

October, 1895, at the Law office of Or. R.
Blankenship & Erving, in Jonesville, Lee County,
Virginia, between the hours of 8 A.M. and 6 P.M.,
will proceed to take the deposition of Jessie Anderson and others

which, when taken, I intended to be read as evidence on my behalf in a certain suit in Chancery
now pending in the Circuit Court of Lee County, State of Virginia, in which
you are _____ plaintiff and
I am _____ defendant.

And if from any cause the same be not commenced, or if commenced, be not concluded on that day, the
taking thereof will be adjourned from time to time, and from place to place, until completed.

October 11, 1895.

Very Respectfully,

W. H. Pheas
By Counsel.

Virginia,
Lee county, to wit;

This day Thos. Strong personally appeared before
me, S. V. F. Richmond, Clerk of county court of Lee
Co., Va., & made oath that he delivered a true
copy of the within to G. L. Poter on Oct. 14,
1895, he being in said county, given under
my hand, this Oct. 17, 1895-

J. V. F. Richmond.
Clerk

G. L. Poter
J. J. Poter
J. H. Mear-

The Commonwealth of Virginia,

To the Sheriff of the County of Lee---Greeting:

WE COMMAND YOU, That you summon

W. H. Rhea

to appear at the Clerk's Office of the Circuit Court of the County of Lee, at the rules to be held
for the said Court on the *3rd* Monday in *September*, 189*5*, to answer a
bill in Chancery, exhibited against *him* in our said court by

Lo Lo Potuit

And have then there this writ. Witness, A. B. MUNSEY, Clerk of our said Court, at the court-
house, the *6th* day of *September*, 189*5*, and in the
1*20th* year of the Commonwealth.

A B Munsey Clerk.

Bond having been given before me the injunction heretofore granted by the Judge of the Circuit Court of this becomes effective; Injoining and inhibiting the said W H Rhea from his attorneys or agents from selling or removing the corn mentioned in the bill until the future order of this court; The corn mentioned in said bill is the corn now standing and being on a piece of land lately recovered in an action of unlawful entry and detainer in the Circuit Court of Lee County in a suit by L L Poteet vs Jesse Anderson and which was cultivated by the said W H Rhea on said land this Sept 6th 1895

L L Poteet

SUPPENA

vs. IN CHANCERY.

W H Rhea

Prudence & Sewell

To 2nd Sept Rules,

Circuit Court.

Executed by delivering

a copy of the within

Summons to W H Rhea

Sept 7th 1895

Edison Bledsoe

for W P Weston Secy

A B Munsey Clerk